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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Simon Hunt

Serial No.: 09/762,852

Filed: February 14, 2001

For: INTERACTIVE SYSTEM FOR
ENABLING TV SHOPPING

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Art Unit: To be assigned

Examiner: To be assigned

Atty Docket: 20234/0070

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OFFICE OF PETITIONS

RENEWED PETITION UNDER 37 C.F.R. § 1.47(b)

Commissioner for Patents
Washington, D.C. 20231
ATTENTION: PCT Legal Office

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01 MAY 2002
Legal Staff
International Division

Sir:

The undersigned requests reconsideration of the dismissal of the Petition filed under 37 C.F.R. § 1.47(b) in light of the following.

On February 25, 2002, the U.S. Patent and Trademark Office issued a Decision on Petition Under 37 C.F.R. § 1.47(b). In the foregoing Decision, the U.S. Patent and Trademark Office agreed that Applicants had met the requirements of 37 C.F.R. § 1.47(b) except for the requirement that:

Factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

In support of its dismissal of the Petition, the U.S. Patent and Trademark Office quoted from the manual of Patenting Examining Procedure, § 409.03(d). This portion of the section of the M.P.E.P. has been cited for the proposition that:

A review of the present Petition and papers reveal that Petitioner has not provided sufficient proof that the non-signing inventor refuses to execute the application.

The Petitioner has alleged, not a refusal to carry out execution of the application, but as set forth in the Renewed Petition of November 26, 2001, and attached Exhibits thereof, a refusal to deliver signed documents to the Petitioners representative so that they can be filed in the U.S. Patent and Trademark Office. The documentation enclosed with the Applicants previous Petition indicates, through correspondence from the inventor/applicant dated 9 February 2001, that the inventor does not contest his obligation to sign and execute documents as set forth in the Deed of Assignment previously furnished in connection with this Petition. Accordingly, the foregoing provision of the manual of Patenting Examining Procedure is implacable, where the failure to provide a executed Declaration is not due to a refusal to sign, but a refusal to deliver such documents for filing with the U.S. Patent and Trademark Office. No proof of a failure to execute an application is appropriate under these circumstances.

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to placate*

The record is clear that the inventor is intentionally withholding delivery of the executed documents which otherwise will result in a loss of right and irreparable damage to the Petitioner, unless the U.S. Patent and Trademark Office grants the relief provided under 37 C.F.R. § 1.47. Petitioner has made every effort to secure the required Declaration, including offering to pay £1,500 over and above any legally required consideration due the applicant/inventor (letter of Howard Milhench dated November 26, 2001, previously submitted). Unless the U.S. Patent and Trademark Office grants the relief under 37 C.F.R. § 1.47(b), Petitioner will suffer irreparable harm through no fault of its own.

The Petitioner has furnished all evidence available on the non-delivery of the required Declaration. However, Petitioner earnestly seeks guidance as to whatever showing is necessary to prove that the applicant /inventor has been given every opportunity to sign and deliver the Declaration.

In accordance with the foregoing, reconsideration is respectfully requested.

The Director is hereby authorized to charge any fees, or credit any overpayment, associated with this communication, including any extension fees, to CBLH Deposit Account No. 22-0185.

Respectfully submitted,



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Date:

4/25/02